

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**JUAN CERVANTES**  
**Plaintiff,**

**V.**

**PANDA EXPRESS INC.**

**Defendant.**

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**CIVIL ACTION NO. \_\_\_\_\_**

**NOTICE OF REMOVAL**

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TO THE UNITED STATES DISTRICT COURT:

Defendant PANDA EXPRESS, INC. pursuant to 28 U.S.C. §§1441 and 1332, provides notice of removal of this action styled *Juan Cervantes v. Panda Express, Inc. and Panda Restaurant Group, Inc.*, Cause No. 2020-75888, currently pending in the 165<sup>th</sup> Judicial District Court of Harris County, Texas, and in support thereof, respectfully shows unto this Court as follows:

1. Plaintiff Juan Cervantes filed her Original Petition on November 24, 2020, claiming damages from a slip and fall. Plaintiff served Defendant with the citation on January 13, 2021 therefore, this notice is timely under 28 U.S.C. § 1446(b).

2. Pursuant to 28 U.S.C. §1446 and the Local Rules of the United States District Court for the Southern District of Texas, attached are the following:

- a. All executed process in the case (Exhibit A);
- b. Pleadings asserting causes of action and all answers to such pleadings (Exhibit B);
- c. All orders signed by the state judge (none);
- d. The docket sheet (none);
- e. An index of matters being filed (Exhibit C);

- f. A list of all counsel of record, including addresses, telephone numbers, and parties represented (Exhibit D).

These documents represent all that are presently available as required.

4. The District Courts of the United States have original jurisdiction over this action by reason of diversity of citizenship between the parties. 28 U.S.C. §1332. Plaintiff's Original Petition alleges that Plaintiff Juan Cervantes resides in Harris County, Texas, and therefore is a citizen of the state of Texas. Defendant Panda Express, Inc. is a California corporation with its principle place of business in Rosemead, California. A corporation is deemed to be a "citizen" of the state where it maintains its principal place of business and the state of its incorporation.<sup>1</sup> Therefore, Defendant is a citizen of the state of California. Plaintiff also incorrectly sued Panda Restaurant Group, which is also a CA company with its principle place of business in Rosemead, California. Panda Restaurant Group is the parent company of Panda Express, Inc.

5. Plaintiff's Original Petition in the state court seeks damages over \$200,000 but not more than \$1,000,000, and thus the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interests and costs.

6. Removal of this cause of action is proper under 28 U.S.C. §1441. It is a civil action brought in state court and the District Courts of the United States have original jurisdiction over this action under 28 U.S.C. §1332, since the plaintiff and the defendant are diverse in citizenship.

7. As required by 28 U.S.C. §1441, the 165<sup>th</sup> Judicial District Court of Harris County, Texas falls within the geographical purview of this Court, and thus, venue is proper in the United States District Court of the Southern District of Texas, Houston Division.

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<sup>1</sup> See 28 U.S.C. §1332(c)(1); see also, *Hertz Corp. v. Friend*, 559 U.S. 77, 130 S. Ct. 1181, 1185-86 (2010).

8. Written notice of the filing of this Notice of Removal is being promptly given to Plaintiff and a notice of Filing of Notice of Removal is promptly being filed with the 165<sup>th</sup> District Court in Harris County, Texas, as required by 28 U.S.C. §1446(d).

WHEREFORE, PREMISES CONSIDERED, Defendant Panda Express, Inc. prays that the state action now pending in 165<sup>th</sup> District Court in Harris County, Texas, be removed to this Court, and for any further relief to which Defendant is justly entitled.

Respectfully submitted,  
MEHAFFYWEBER, P.C.

By:/s/Maryalyce W. Cox  
Maryalyce W. Cox  
State Bar No. 24009203  
One Allen Center  
500 Dallas, Suite 2800  
Houston, Texas 77002  
Telephone - (713) 655-1200  
Telecopier - (713) 655-0222  
maryalycecox@mehaffyweber.com

ATTORNEYS FOR DEFENDANT  
PANDA EXPRESS, INC.

CERTIFICATE OF SERVICE

In addition to e-filing, this is to certify that a true and correct copy of the above and foregoing instrument has been forwarded by Certified Mail, return to receipt requested, to all counsel of record on this the 12<sup>th</sup> day of February, 2021 pursuant to both the Texas Rules of Civil Procedure and the Federal Rules of Civil Procedure. .

Maryalyce W. Cox  
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